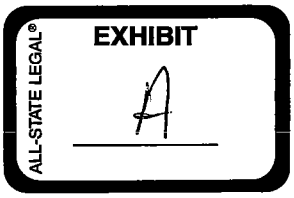

From: Timothy Hoffman [mailto:THoffman@SanchezDH.com]
Sent: Monday, July 07, 2008 2:34 PM
To: Karasik, Mark L; Thomas J Andrews; sdb@rblaw.net; tmpalumbo@kopkalaw.com
Subject: Union Tank East Chicago equipment removal

Gentlemen: As you are aware, Union Tank has closed its' plant in East Chicago where the Misiak incident took place. Union Tank plans on razing and demolishing the entire East Chicago facility in the near future. Hence, I would ask that the parties confer and agree upon the needed protocols and set a date for the next inspection that was discussed by the parties on June 24, 2008. Due to the planned demolition and razing, we must insist that the next (and final, at least as to the premises) inspection take place before August 15,2008.. I look forward to seeing the protocols and being able to set up the inspection and would ask that this be done as expeditiously as possible.

Finally, the equipment and all artifacts involved in the accident must be removed from the Union Tank East Chicago premises before September 1, 2008 . This date is absolutely "set in stone" and cannot be changed or continued as there is an equipment auction at the plant set for September 3,2008 with dismantling operations to commence on September 8,2008. I would suggest that the parties also agree upon a protocol or protocols for the removal and storage of these items concurrently with the inspection protocols. I know that at least two of the parties representatives have suggested that removal and storage to a different facility would be the best course of action in any event. I also look forward to seeing these protocols as well. I thank all for their anticipated cooperation. Please do not hesitate to call or contact me with any questions or concerns. Tim Hoffman



Gillespie, Peter J

From: Hawley, Heather L on behalf of Karasik, Mark L
Sent: Tuesday, July 15, 2008 2:19 PM
To: 'kjj@rblaw.net'; 'sdb@rblaw.net'; 'tmpalumbo@kopkalaw.com'; 'Thomas J Andrews'; 'THoffman@SanchezDH.com'
Cc: Gillespie, Peter J; Karasik, Mark L
Subject: Misiak v. Hubbell
Attachments: Testing Protocol from Kadlec.pdf

Gentlemen:

As promised in my email of yesterday (which circulated the list of attendees at the June 24 inspection), I am attaching Hubbell's protocol for the next inspection. Given Tom Andrews' email of yesterday regarding availability, I suggest we lock in the days of August 12 and 13 for the inspection. It may well take two days. Again, the protocol contemplates that Whiting will produce to all parties the crane manual as soon as practical. I am also asking Tim Hoffman if Union Tank can do the following: (1) ensure that the catwalk is free form debris (unlike the first inspection); (2) provide a crane operator; (3) provide power to the crane and power for additional lighting; (4) provide a maintenance person; (5) ensure that when the crane is ultimately dismantled the system is taken out as a whole; and (6) confirm that all maintenance records for the subject crane have been produced pursuant to my prior subpoena (frankly, we didn't see any). These items are set forth in Section 2 of the protocol titled "preparation for inspection and testing." Tom Andrews previously suggested that the parties agree to split the dismantling and storage and my client agrees, but someone needs to take the lead on that. Please provide comments or agreement to the protocol by the end of the week. In the event that there are disagreements, I simply plan to present a motion for leave to conduct the inspection pursuant to the protocol since all of my experts assure me that it is entirely non-destructive. Given the significance of the injuries in this case, we believe that the parties should reasonably be allowed to do all the testing they want to do.

Thank you all for your cooperation and professionalism.

Best regards,
Mark

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Protocol for Further Inspection and Testing Of Subject 5 Ton Whiting Bridge Crane

1. Background.

During the June 24, 2008 preliminary inspection of the subject bridge crane it was agreed that further detailed inspection and testing would be required for investigation of the subject bridge crane accident. This protocol proposes such efforts in outline fashion with the understanding that once further inspection and testing is undertaken adjustments may be required depending on observations and findings.

2. Preparation for Inspection and Testing

At the June 24, 2008 preliminary inspection is was observed that conditions at the site were not satisfactory for careful inspection and insitu testing. Therefore, prior to this detailed inspection and testing some simple preparation will be required as follows:

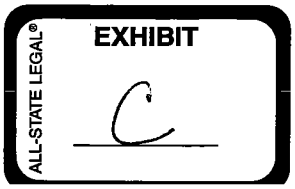
- Circulate any information, data or reports that documented any testing to the subject bridge crane which was performed subsequent to the date of the accident and prior to the preliminary June 24, 2008 preliminary inspection. It is important that these materials and information be provided in a timely manner and in advance of the testing.

- Secure any and all appropriate crane operation materials for this subject crane. These materials and information include, but are not limited to, the operation manual, maintenance manual, electrical layout and circuit diagrams, and operation history and maintenance logs. It is important that these materials and information be provided in a timely manner and in advance of the testing.

- Secure electrical power to the area of the building where the crane is located.

- Secure electrical power to the crane.

- Set up lighting at the crane level to illuminate at least the control panel, control pendant, catwalk and crane carriage-drum assembly areas. The crane carriage-drum assembly should be accessible from all sides.



- The electrical power and lighting provided must provide sufficient power and illumination to allow accurate photo, video and measurement documentation.

- Clean away the debris at the crane level at least in the areas where inspection and testing will occur.

- Setup some workspace areas (tables) and additional electrical power (extension cords) at the same locations for instrumentation and documentation equipment.

- Have available a qualified crane operator, qualified crane maintenance person to perform necessary work and operation when needed.

- Secure sufficient scaffolding for access to the crane from below. Also have a man lift available for access from below.

- Secure any additional items or support that may be required after arrival at the site.

3. Subject Crane Inspection

Perform necessary non-destructive and safe inspection, documentation and photography of the crane conditions once the important inspection and testing areas have been secured and proper power and lighting has been established prior to any inspection and testing. This documentation and photography should be performed prior to powering the crane unit and occur in, but not limited to, the following areas:

- The crane ropes from the floor to the drum by means of the man-lift.

- The crane carriage-drum drive assembly from below by means of a man-lift.

- The control panel and contents, control pendant and the wiring/ connections from the main power to the control panel and from the control panel to the carriage-drum assembly and the control pendant (from crane level).

- The crane carriage-drum assembly from the crane level and from all sides, including, but not limited to, the motor-brake system, the drive system from motor to drum, the drum and the rotary limit switch.

- X-ray the control pendant in place and prior to any operation or manipulation.

- Inspect, document and photograph all locations prior to removing any panels or covers.

- Remove panels and covers from appropriate equipment or components where necessary to inspect, document and photograph these areas. Locations could include but are not limited to the control panel, motor-brake system and rotary limit switch.

4. Insitu Subject Crane Power-up and Initial Operation

Electrically energize the crane power and control systems to perform initial operation of the bridge crane. From this point on during testing a number of documentation and diagnostic observations of the various systems and components may be required to determine the operation and function of the crane operation and control. These include but are not limited to photography, video, and electrical and mechanical measurements. This initial power-up and initial operation should include, but not be limited to the following:

- All testing should be performed in a non-destructive and safe manner.

- During this testing and all other testing the crane will not be operated under load but with the existing rope condition.

- During this testing and all other testing the crane should be operated by one qualified operator or person designated to do so.

- Prior this testing and all other testing remove panels and covers from appropriate equipment or components where necessary to inspect, document, measure, video and photograph these areas prior to and during testing. Locations could include but are not limited to the control panel, motor-brake system, control pendant and rotary limit switch.

- Attempt to command the system to lower the rope for a limited time (four foot displacement) and note the result.

- Attempt to command the system to raise the rope for a limited time (four foot displacement) and note the result.

- Repeat the “lower rope” command while monitoring the control and drive systems.

- Repeat the “raise rope” command while monitoring the control and drive systems.

- Perform any additional tests and documentation required as a result of what occurs during this initial power-up and initial operation.

- Under circumstances where the subject bridge crane does not power up or function at start-up it will be necessary to trouble-shoot the system. A procedure for doing so should be established and agreed upon before proceeding. This procedure must minimize any disturbance of the evidence and be of a non-destructive nature. Should these trouble-shooting efforts be unsuccessful the crane and components must be preserved until the situation can be remedied and the insitu test be completed.

- Any trouble shooting efforts must insure that the following not take place:

A. The drum and wire rope are not altered at all during the testing except to make sure that the rope is tracking when the crane is commanded up or down.

B. The condition of the pendant up and down controls are not altered.

C. The condition of the rotary limit switch is not altered. This requirement includes but is not limited to any change in the connection of the switch to the drum via the shaft and coupling, cam locations on the switch, and other mechanical and electrical conditions of the switch.

D. The condition of loose wire connections which transfer electrical control or power are not altered.

E. The conditions of the relays which receive input from the up and down pendant controls and rotary limit switch and control power to the motor for the up and down commands to the crane are not altered.

F. The conditions of the motor-brake system with respect to motor-off-brake-on and the brake torque are not altered.

5. Insitu Subject Crane Upper Limit Travel Test

Depending upon initial operation test results set up conditions for testing the upper limit travel (anti two-block) including but not limited to the following:

- All testing should be performed in a non-destructive and safe manner.
- Determine the approximate upward vertical rope travel length at which the "two block" condition occurs from the condition of the existing rope markings and fractures and crane drawings. Indicate this location on the rope with sufficient marks.
- Prepare sufficient documentation and measurement requirements (rope and drum displacement, electrical output conditions, control system conditions) for this test at the locations of rope travel, drum rotation, pendant control, control panel activity, motor-brake system operation and rotary limit sensor operation. Again, have covers removed from appropriate equipment or components where necessary in order to inspect, document, measure, video and photograph these areas prior to and during testing.
- Command the crane to "raise rope" and monitor, document and measure the result at various locations on the crane including but not limited to the rope, drum, pendant control, motor-brake, control system and rotary limit switch.
- Repeat this "raise rope" operation again as necessary.
- Perform any additional tests and documentation required as a result of what occurs during this upper limit travel test.

6. Insitu Subject Crane Motor-Brake Test

Repeat the upper limit travel (anti two-block) test to document and measure the response of the motor-brake system including but not limited to the following:

- All testing should be performed in a non-destructive and safe manner.
- Prepare sufficient documentation and measurement requirements (rope and drum displacement, electrical output conditions, control

system conditions) for this test at the locations of rope travel, drum rotation, pendant control, control panel activity, motor-brake system operation and rotary limit sensor operation. . Again, have covers removed from appropriate equipment or components where necessary in order to inspect, document, measure, video and photograph these areas prior to and during testing.

- Perform a torque test on the motor brake using appropriate torque wrench prior to operation.

- Command the crane to "raise rope" and monitor, document and measure the result at various locations on the crane including but not limited to the rope, drum, motor-brake, control system and rotary limit switch.

- Repeat this "raise rope" operation again as necessary.

- Perform any additional tests and documentation required as a result of what occurs during this upper limit travel test.

7. Insitu Subject Crane Control Panel Test

Repeat the upper limit travel (anti two-block) test to document and measure the response of the control system including but not limited to the following:

- All testing should be performed in a non-destructive and safe manner.

- Prepare sufficient documentation and measurement requirements (rope and drum displacement, electrical output conditions, control system conditions) for this test at the locations of rope travel, drum rotation, pendant control, control panel activity, motor-brake system operation and rotary limit sensor operation. Again, have covers removed from appropriate equipment or components where necessary in order to inspect, document, measure, video and photograph these areas prior to and during testing.

- Command the crane to "raise rope" and monitor, document and measure the result at various locations on the crane including but not limited to the rope, drum, pendant control, motor-brake, control system and rotary limit switch.

- Repeat this "raise rope" operation again as necessary.

- Perform any additional tests and documentation required as a result of what occurs during this upper limit travel test.

8. Removal of Systems and Components for Further Testing

At the conclusion of this inspection and testing program it will be necessary to remove certain systems and components for further testing and preservation of evidence. These include, but are not limited to: the rope and rope fractures and damage marks, the entire carriage-drum assembly with all components attached to it, the control panel and contents, the control pendant, wire and connection systems between these items. In fact it will be best if the subject crane is maintained intact after removal. Arrangements should be agreed upon and a plan made at this time for the removal and preservation processes. These efforts should be completed in a manner that maximizes preservation of the evidence.

Gillespie, Peter J

From: Hawley, Heather L on behalf of Karasik, Mark L
Sent: Wednesday, July 30, 2008 11:16 AM
To: 'kjj@rblaw.net'; 'sdb@rblaw.net'; 'tmpalumbo@kopkalaw.com'; 'Thomas J Andrews'; 'THoffman@SanchezDH.com'
Cc: Karasik, Mark L; Gillespie, Peter J
Subject: Misiak v. Hubbell
Attachments: CHIDMS1-2637014-v1-misiak_motion_for_protective_order.DOC; protocol draft.DOC

Tim:

This will confirm our telephone conversation today. Everyone in the case has signed off on the attached motion and protocol. We plan to file it today and would like to represent that Union Tank is in full agreement as well. Please confirm as soon as you can.

Best regards,
Mark

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